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COMMISSION ON HUMAN RIGHTS

Fifty-fifth session

SUMMARY RECORD OF THE 57th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 27 April 1999, at 3 p.m.

Chairperson: Ms. ANDERSON (Ireland)

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The meeting was called to order at 3 p.m.

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

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(agenda item 11) (continued) (E/CN.4/1999/L.55/Rev. 2 and L.64)

Draft resolution on promotion of the right to democracy (E/CN.4/1999/L.55/Rev.2)

1. Mr. BROWN (United States of America), introducing the draft resolution on behalf of its sponsors, who were currently 46 in number, said that it recognized the fundamental point that democracy was itself a human right and noted the indispensable role of democratic participation in maintaining all human rights. Democracy was both a means to promoting human rights and an end in itself.

2. Article 21 of the Universal Declaration of Human Rights recognized the right to take part in the government of one's country. The right to democracy also encompassed the associated rights essential to effective political participation, including freedom of opinion and expression, peaceful assembly and association and the freedom to seek, receive and impart information through any media. Free and fair elections, although the basis of any free society, did not alone suffice to protect the rights of people. In a broader sense, therefore, the enjoyment of democracy depended upon the rule of law and the legal protection of citizens' rights.

3. A growing number of countries throughout the world were moving to promote and protect human rights, and they had learned that the democratic process was the best guarantee therefor. Where democracy was absent, human rights would suffer, and social tensions mounted when there was no legitimate process for addressing them. When people were denied the right to political participation, their economic, social and cultural rights were jeopardized as well.

4. Half a century after the Universal Declaration of Human Rights and on the eve of the new millennium, it was time that all members of the Commission supported the notion that the right to democratic governance was not just a privilege, removable at the will of a Government, but a fundamental human

right. The draft resolution recognized that the right to democracy was at the centre of an indivisible and interdependent body of all human rights, and his delegation hoped that the Commission would adopt it by consensus.

5. A number of changes had been made to the text of the draft resolution. In the second preambular paragraph, the word "to" had been replaced by "of". Paragraph 6 should refer to paragraph 2, not paragraph 1, of the resolution. The phrase "including the right to development" had been inadvertently omitted from the Spanish version of paragraph 3. Lastly, in an effort to reach a consensus text and at the request of one delegation, the sponsors had agreed to add the words "and vice versa" at the end of paragraph 1.

6. Mr. AGUILAR URBINA (Secretary of the Commission) said that the representatives of Bangladesh, Colombia, Czech Republic, Germany, Italy, Liberia, Nepal, Philippines, Republic of Korea, Rwanda, Sri Lanka, Tunisia and Venezuela and the observers for Albania, Australia, Bulgaria, Costa Rica, Denmark, Dominican Republic, Estonia, Honduras, Israel, Netherlands, New Zealand, Nicaragua, Paraguay, Portugal, Switzerland, the former Yugoslav Republic of Macedonia and Uganda had become sponsors of the draft resolution.

7. Mr. H.K. SINGH (India), speaking in explanation of vote before the voting, said that democracy was the best guarantor of human rights and for the people of India, the world's biggest democracy, the natural and only acceptable form of government. It was democracy more than anything else which permitted each component element of the vast and diverse Indian society to find expression and self-fulfilment. Democracy was essential for the full and effective realization of all human rights and fundamental freedoms. His delegation thus supported in principle the initiative of the delegation of the United States of America in putting forward a draft resolution on the vital role of democracy in the promotion of human rights.

8. There had been considerable discussion on issues related to the draft resolution's title and whether or not a new right was being established. In his delegation's opinion, that was not the objective of the draft resolution nor should it be. The oral changes made by the representative of the United States of America to paragraphs 1 and 2 had made that clear. His delegation would have preferred the title to have been changed as well; ideally, it should read: "The promotion of democracy as an indivisible element in the effective realization of human rights, the rule of law and development". The existing title tended needlessly to politicize an essentially promotional concept, and raised questions and legal issues that found little support in international human rights instruments.

9. His delegation wished to make it clear in that regard that there were no prescriptive or single model of democracy, and that all peoples had the right freely to determine their own political and constitutional systems in accordance with their right of self-determination. Democracy was a form of government which arose from the will of the people. It could not be imposed, especially from the outside.

10. His delegation considered that the amendments proposed by the delegation of Cuba (E/CN.4/1999/L.64/Rev.4) would add to the value of the text. India was a developing country and his delegation was firmly convinced that the

rights of democratic governance referred to in paragraph 2 included the promotion and realization of economic, social and cultural rights and the right to development. It hoped that the draft resolution could be adopted by consensus but, if a vote were called, it would support the amendments proposed by the delegation of Cuba.

11. Mr. AKRAM (Pakistan) said that his delegation had participated in the preparation of the draft resolution and had made a number of suggestions to improve its text. Generally speaking, his delegation welcomed any proposal that sought to underline the principle that governance should be in accordance with the norms of democracy and free will, but democratic governance must first and foremost take account of the traditions and culture of a country.

12. His delegation had proposed the inclusion in the chapeau of paragraph 2 of a reference, taken from the Vienna Declaration and Programme of Action, stating that the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind. It was regrettable that the sponsors had not been able to accept that proposal.

13. It was also his delegation's belief that any provision or proposal relating to democracy must bear in mind the attempts by certain Powers which were occupying lands and territories to use the façade of elections to justify such occupation. It had therefore suggested the inclusion of a separate paragraph underlining the fact that elections held under foreign occupation or colonial domination could not be considered to be free and fair or a genuine exercise of democratic rights. Regrettably, sponsors had not been able to incorporate that proposal either.

14. His delegation had, however, been encouraged by the inclusion of the second preambular paragraph recalling the right of all peoples to self-determination, a reference which to some extent compensated for the absence of any reference to the suppression of the right by foreign occupation. However, it was concerned that the change to the second preambular paragraph just made orally by the representative of the United States of America had altered the meaning of the right of self-determination and would have preferred an exact reproduction of the words used in article 1.1 of the two International Covenants of Human Rights so that the paragraph would begin: "Recalling that all peoples have the right of self-determination, by virtue of ...". Without that change, the principle of self-determination itself was being called into question.

15. His Government had some questions about the concept of a right to democracy. While believing in and being committed to democracy, it wondered whether it was legitimate or wise to propound something that could later be promoted as a legal concept. He hoped that that was not the intention of the sponsors, and that the phraseology of "the right to democracy" was being used more in a political and ethical sense than in a legal one. If a vote were held on the amendment proposed by the delegation of Cuba to the title of the draft resolution, his delegation would vote for it.

16. Mr. VALENCIA (Ecuador) said he understood the practical difficulty of defining the scope of the concept of democracy and establishing a universal model. The title of the draft resolution reflected the broad view that democracy should cover all civil, political, economic, social and cultural rights and the right to development.

17. Mr. SALINAS RIVERA (Chile) said that, for his country, democracy not only had a formal political aspect but also economic, social and cultural ones. Chile fully supported those who promoted democracy as a political system because it was the only system that encouraged respect for all human rights and the development of peoples. However, his delegation would have preferred a debate on the subject and regretted that not enough time had been made available for one. He hoped that, at future Commission sessions, discussion of the promotion of democracy and its connection with the realization of human rights would be allocated the necessary time.

18. Mr. PADILLA MENÉNDEZ (Guatemala) said that the concept of democracy was firmly linked to popular participation and the absence of an authoritarian regime; it was also linked to the rule of law and to respect for fundamental freedoms such as freedom of thought and expression, the holding of free and competitive elections, the right to organize and, in general, full respect for all civil and political rights. The right to democracy was, like the right to development, a collective right rather than an individual one. Democratic systems could take very different forms. His delegation had decided to become a sponsor of the draft resolution as orally modified.

19. Mr. BROWN (United States of America) said that his own delegation would be able to accept the amendment to the second preambular paragraph proposed by the representative of Pakistan which would incorporate directly the language of article 1.1 of the two International Covenants of Human Rights. If its co-sponsors agreed, the amended paragraph would read: "Recalling that all peoples have the right of self-determination, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development".

20. Mr. DE ICAZA (Mexico) said that, while his delegation fully shared the thinking behind the draft resolution, there appeared to be something of an internal contradiction in the text. The title referred to the right to democracy, but nowhere else in the draft resolution was the right named. The text referred merely to the promotion of democracy. Paragraph 2 referred to the rights of democratic governance but not to the right to democracy as such.

21. Mrs. de ARMAS GARCÍA (Cuba), introducing the amendments proposed by her delegation (E/CN.4/1999/L.64/Rev.4) the second of which had already been accepted by the representative of the United States of America, said that, because the promotion of democracy was a very important issue for her country, her delegation had approached the sponsors of the draft resolution in an effort to secure a more balanced text. The concept of promotion of the right to democracy had not been established in any international instrument, or in prevailing human rights principles and standards, and a process of such magnitude called for a thoroughgoing, open-ended and wide-ranging process of

consultation, which had not taken place. The main sponsor had paid little attention to the views of other delegations and had effectively finalized the text of the draft resolution by itself.

22. That text, which was rather vague, ambiguous, confused and incomplete, set a dangerous precedent for the future. The promotion of democracy had to be based on full observance of the sovereignty of States and of non-interference in their internal affairs; an idea that should certainly have been included in the text. Any linkage between the concept of democracy and human rights should have made reference to the fact - made clear in the Vienna Declaration and Programme of Action - that human rights were multifaceted, could not be restricted to civil and political rights but should also embrace economic, social and cultural rights and the right to development, all of which should be placed on an equal footing.

23. Since the main sponsor had shown no flexibility in addressing the interests of all parties in a wide-ranging open process, her delegation had been constrained to table some amendments. The first was that the title of the draft resolution should be amended to read "Promotion of democracy". The second was that paragraph 3 should be deleted and replaced by a new subparagraph (i) of paragraph 2 which would read: "The full promotion of all human rights, civil, cultural, economic, political and social, as well as the right to development." That would establish the interdependency of all human rights in relation to democracy and make the text more balanced and a proper point of departure for a wide-ranging debate. She hoped that the proposed amendments would be adopted by consensus.

24. Ms. RUBIN (United States of America) said that her delegation had held extensive consultations on the draft resolution. A number of delegations had offered constructive comments which had been incorporated into the version currently before the Commission. Neither of the two amendments proposed by the delegation of Cuba was acceptable to her delegation. The existing title articulated the 2000-year-old democratic concept that the people themselves were in the best position to choose their form of government. To jettison the ringing endorsement of democracy contained in paragraph 3 would seriously damage what was a thoroughly balanced resolution. She therefore requested a roll-call vote on the draft resolution. The Commission should reject the Cuban amendments and adopt the draft resolution in its existing form.

25. Mrs. de ARMAS GARCÍA (Cuba) said that the kind of democracy outlined in the draft resolution was the type specific to the United States, the "democracy" which had tolerated apartheid until the 1960s. Accordingly, her delegation requested separate roll-call votes on both the amendments it proposed.

26. The CHAIRPERSON said that, in accordance with rule 64 of the rules of procedure of the functional commissions of the Economic and Social Council, the amendments to the draft resolution would be voted on first, followed by a vote on the draft resolution itself.

27. Mr. KANAVIN (Norway), speaking in explanation of vote before the voting, said that the title was perfectly acceptable to his delegation. The text of the draft resolution, which made clear that a commitment to human rights amounted to a right to democracy, was more significant.

28. Mr. FARCAS (Romania) said that the successive revisions of the draft resolution demonstrated that the sponsors had already compromised significantly on the original text. The Romanian people had made enormous sacrifices to rid themselves of a dictatorship and establish a liberal democracy in its place. The right to democracy was a key element in the country's system of governance. His delegation would therefore vote against the Cuban amendments.

29. Mr. MALGUINOV (Russian Federation) said that his delegation firmly supported the ideas contained in the draft resolution. Democracy was a starting point for the exercise of all human rights, and the right to development reinforced the right to democracy. Nevertheless, his delegation had some legal misgivings about arrogating to democracy the status of a right. The concept required further discussion by experts in intergovernmental forums. It was also a matter which the Sub-Commission ought to discuss. The Organization for Security and Cooperation in Europe (OSCE) had already explored the link between democracy and human rights, but it had never referred to a right to democracy. It was therefore premature to inject the concept into intergovernmental documents, and his delegation would thus vote in favour of the Cuban amendments.

30. Mr. RODRÍGUEZ CEDEÑO (Venezuela) said that his delegation could not support the amendments proposed by Cuba, since to do so would limit the scope of future debate on the issue. New human rights standards were shaped gradually and developed through their inclusion in intergovernmental documents.

31. At the request of the representative of Cuba, a vote was taken by roll-call on the Cuban amendment (E/CN.4/1999/L.64/Rev.4) to delete the words "the right to" from the title of the draft resolution on the promotion of the right to democracy (E/CN.4/1999/L.55/Rev.2).

32. Cape Verde, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Bhutan, Chile, China, Congo, Cuba, India, Indonesia, Madagascar, Mexico, Pakistan, Russian Federation, Sudan.

Against: Argentina, Austria, Canada, Cape Verde, Colombia, Czech Republic, Ecuador, El Salvador, Germany, Guatemala, Italy, Latvia, Liberia, Luxembourg, Nepal, Norway, Peru, Philippines, Poland, Republic of Korea, Romania, Rwanda, Senegal, South Africa, Sri Lanka, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela.

Abstaining: Bangladesh, Botswana, Democratic Republic of the Congo, France, Ireland, Japan, Mauritius, Morocco, Mozambique, Niger, Qatar, Tunisia, Uruguay.

33. The Cuban amendment to delete the words "the right to" from the title of the draft resolution (E/CN.4/1999/L.64/Rev.4) was rejected by 28 votes to 12, with 13 abstentions.

34. Ms. GLOVER (United Kingdom), speaking in explanation of vote before the voting, said that her delegation did not consider it necessary to amend paragraph 3 of the draft resolution since the existing text was more powerful than the proposed amendment. Furthermore, the proposed amendment misquoted some important language agreed upon the previous year in Commission resolution 1998/56 and at the General Assembly in the context of the fiftieth anniversary of the Universal Declaration of Human Rights. The correct language should be "including the right to development". The proposed amendment also misinterpreted the Vienna Declaration, which reaffirmed that the right to development was a universal and inalienable right and an integral part of fundamental human rights. The proposed amendment did not reflect that idea.

35. At the request of the representative of Cuba, a vote was taken by roll-call on the Cuban amendment (E/CN.4/1999/L.64/Rev.4) to delete paragraph 3 of the draft resolution (E/CN.4/1999/L.55/Rev.2) and replace it by a new subparagraph 2 (i).

36. Madagascar, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Bhutan, China, Congo, Cuba, India, Madagascar, Mexico, Pakistan, Sudan.

Against: Argentina, Austria, Canada, Cape Verde, Chile, Colombia, Czech Republic, Ecuador, El Salvador, Germany, Guatemala, Italy, Japan, Latvia, Liberia, Luxembourg, Norway, Peru, Philippines, Poland, Republic of Korea, Romania, Rwanda, Senegal, South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Bangladesh, Botswana, Democratic Republic of the Congo, France, Indonesia, Ireland, Mauritius, Morocco, Mozambique, Nepal, Niger, Qatar, Russian Federation, Sri Lanka, Tunisia, Uruguay, Venezuela.

37. The Cuban amendment to delete paragraph 3 and replace it by a new subparagraph 2 (i) (E/CN.4/1999/L.64/Rev.4) was rejected by 27 votes to 9, with 17 abstentions.

38. Mrs. de ARMAS GARCÍA (Cuba), speaking in explanation of vote before the voting, said that her delegation would abstain from voting on the draft resolution (E/CN.4/1999/L.55/Rev.2). Any text on such an important issue should enjoy a broad-based consensus as a result of wide-ranging consultations. The draft resolution in its existing form was ambiguous,

incomplete and created a dangerous precedent. It should respect the approach outlined in paragraph 8 of the Vienna Declaration and Programme of Action, namely, that any link between the concept of democracy and human rights should stem from a multidimensional concept that could not be restricted to civil and political rights but must also include economic, social and cultural rights, in short full participation by human beings in all aspects of their lives.

39. Mr. PLORUTTI (Argentina) said that his delegation would vote in favour of the draft resolution. It would have liked to become a sponsor of the draft resolution, but had it done so it would have been unable to state its position on the right to self-determination, namely, that self-determination should not be used to undermine the territorial integrity of sovereign independent States.

40. Mr. SUTOYO (Indonesia) said that no one disputed the fact that democracy was a superior political system, and his delegation endorsed the values contained in the draft resolution. Democratic systems should not be forced into a straitjacket, however, and the right to democracy was a new concept that necessitated further debate in order to develop a common understanding of the term.

41. Mr. WANG Min (China) said that China's Constitution and laws fully protected human rights. His Government was committed to reforming and perfecting its legal system in accordance with the rule of law. However, there was no universal model for democratic political systems. All Governments and peoples were entitled to choose their individual paths of political development in accordance with the specific conditions prevailing in their countries.

42. The concept of a right to democracy was new and required further discussion, and it was premature to include it in a Commission resolution. Furthermore, it was wrong to single out political rights and downplay the importance of economic, social and cultural rights. Because the draft resolution selectively promoted a single aspect of human rights, and because more attention needed to be given to the specific historical, cultural and political background in each country, his delegation would abstain from voting on it.

43. Mr. H.K. SINGH (India) said that his delegation wished to become a sponsor of the draft resolution.

44. At the request of the representative of the United States of America, a vote was taken by roll-call on the draft resolution on the promotion of the right to democracy (E/CN.4/1999/L.55/Rev.2).

45. Mexico, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Argentina, Austria, Bangladesh, Bhutan, Botswana, Canada, Cape Verde, Chile, Colombia, Congo, Czech Republic, Democratic Republic of the Congo, Ecuador, El Salvador, France, Germany, Guatemala, India, Indonesia, Ireland, Italy, Japan, Latvia, Liberia, Luxembourg, Madagascar,

Mauritius, Mexico, Morocco, Mozambique, Nepal, Niger, Norway, Pakistan, Peru, Philippines, Poland, Qatar, Republic of Korea, Romania, Russian Federation, Rwanda, Senegal, South Africa, Sri Lanka, Sudan, Tunisia, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Against: None.

Abstaining: China, Cuba.

46. The draft resolution, as orally revised and amended, was adopted by 51 votes to none, with 2 abstentions.

47. Mr. SUMI (Japan) said that democracy was indispensable for promoting and protecting human rights. His delegation hoped that further discussion of the right to democracy would clarify the concept.

The meeting rose at 4.25 p.m.